

EXAMINER'S CASE ACTION WORKSHEET

Application No.
09/957,401



Legal Instrument Examiner

CHECK TYPE OF ACTION

DATE OF COUNT

| | | |
|--|--|--|
| <input type="checkbox"/> Non-Final Rejection | <input type="checkbox"/> Restriction/Election Only | <input type="checkbox"/> Final Rejection |
| <input type="checkbox"/> Ex Parte Quayle | <input checked="" type="checkbox"/> Allowance | <input type="checkbox"/> Advisory Action |
| <input type="checkbox"/> Examiner's Answer | <input type="checkbox"/> Reply Brief Noted | <input type="checkbox"/> Non-Entry of Reply Brief |
| <input type="checkbox"/> Defective Notice of Appeal | <input type="checkbox"/> Interference Disposal SPE _____ (Approval for Disposal) | <input type="checkbox"/> Suspension (Examiner-Initiated) SPE _____ (initial) |
| <input type="checkbox"/> Defective Appeal Brief | <input type="checkbox"/> SIR Disposal (use only after FAOM) | <input type="checkbox"/> Supplemental Examiner's Amendment |
| <input type="checkbox"/> Miscellaneous Office Letter (With Shortened Statutory Period Set) | <input type="checkbox"/> Notice of Non-Responsive Amendment (With One Month Time Period set) | <input type="checkbox"/> Miscellaneous Office Letter (No Response Period Set) |
| <input type="checkbox"/> Abandonment after BPAI Decision | <input type="checkbox"/> Supplemental Action (excluding Examiner's Answer) | <input type="checkbox"/> Response to Rule 312 Amendment |
| <input type="checkbox"/> Letter Restarting Period for Response (e.g., Missing References) | <input type="checkbox"/> Interview Summary | <input type="checkbox"/> Authorization to Change Previous Office Action SPE: _____ (Initial) |
| <input type="checkbox"/> Abandonment | <input type="checkbox"/> Express Abandonment Date: _____ | <input type="checkbox"/> Other Specify: _____ |

Examiner's Name: Alexander O Williams

AU: 2826

| | | |
|-------------------------------|----------------------------------|------------------|
| Notice of Allowability | Application No. | Applicant(s) |
| | 09/957,401 | NEUHAUS ET AL. |
| | Examiner Alexander O Williams | Art Unit 2826 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to the Amendment in Paper # 14, filed 4/1/03.
2. The allowed claim(s) is/are 26-48, 66-85 and 94; renumbered 1-12, 24-42 and 43 respectively.
3. The drawings filed on 9/19/01 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

5. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) The translation of the foreign language provisional application has been received.
6. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

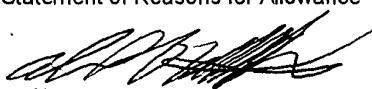
7. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. CORRECTED DRAWINGS must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No. _____.
 - (b) including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

| | |
|--|--|
| <input type="checkbox"/> Notice of References Cited (PTO-892) | <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____. |
| <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____. | <input type="checkbox"/> Examiner's Amendment/Comment |
| <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | <input type="checkbox"/> Other |


ALEXANDER O. WILLIAMS
PRIMARY EXAMINER

Serial Number: 09/957401 Attorney's Docket #: 5542.02
Filing Date: 9/19/01;

Applicant: Neuhaus et al.

Examiner: Alexander Williams

Applicant's Amendment/Response in Paper No. 14, filed 4/1/03 is acknowledged.

This application contains claims 30-33 and 83 drawn to an invention non-elected with traverse in Paper No. 6.

Claims 1-25, 49-65 and 86 to 93 have been canceled.

Claims 26 and 66 are generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 30 to 33 and 83, directed to the species of IV no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 26 to 48, 66 to 85 and 94 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2826

| Field of Search | Date |
|--|--------------------------------|
| U.S. Class and subclass: 257/778,779,784,786,787,738,737,734,700,701,758 | 1/25/02 12/12/02 6/13/03 |
| Other Documentation: foreign patents and literature in 257/778,779,784,786,787,738,737,734,700,701,758 | 1/25/02 12/12/02 6/13/03 |
| Electronic data base(s): U.S. Patents EAST | 1/25/02 12/12/02 6/13/03 |

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. Papers should be faxed to Technology Center 2800 via the Technology Center 2800 Fax center located in Crystal Plaza 4-5B15. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center 2800 Fax Center number is (703) 308-7722 or 24. Only Papers related to Technology Center 2800 APPLICATIONS SHOULD BE FAXED to the GROUP 2800 FAX CENTER.

Any inquiry concerning this communication or any earlier communication from the examiner should be directed to **Examiner Alexander Williams** whose telephone number is (703) 308-4863.

Any inquiry of a general nature or relating to the status of this application should be directed to the **Technology Center 2800 receptionist** whose telephone number is (703) 308-0956.

6/14/03



Primary Examiner
Alexander O. Williams